

STATE OF DELAWARE

OFFICE OF AUDITOR OF ACCOUNTS

STATEWIDE STIMULUS READINESS AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

AGREED-UPON PROCEDURES ENGAGEMENT

FISCAL YEAR 2010

**FIELDWORK END DATE: APRIL 26, 2010
REPORT ISSUANCE DATE: JUNE 14, 2010**

**R. THOMAS WAGNER, JR., CFE, CGFM, CICA
AUDITOR OF ACCOUNTS**

**Townsend Building, Suite 1
401 Federal Street
Dover, DE 19901**

Telephone: 302-739-4241

Facsimile: 302-739-2723

<http://auditor.delaware.gov>

TABLE OF CONTENTS

Independent Accountant's Report	1
Findings & Observations	5
Distribution of Report	8



STATE OF DELAWARE
OFFICE OF AUDITOR OF ACCOUNTS

R. THOMAS WAGNER, JR., CFE, CGFM, CICA
AUDITOR OF ACCOUNTS

PHONE: 302-739-4241
FAX: 302-739-4217

Independent Accountant's Report
on Applying Agreed-Upon Procedures

The Governor's Stimulus Solutions Group
The Honorable Matthew Denn
Lieutenant Governor
820 N. French Street, 10th Floor
Wilmington, DE 19801

Dear Lt. Governor Denn:

We have performed the procedures enumerated below, which were agreed to by the following:

- Criminal Justice Council
- Department of Education
- Department of Health and Social Services
- Department of Transportation
- Delaware State Housing Authority
- Department of Labor
- Department of Natural Resources and Environmental Control
- Appoquinimink School District
- Brandywine School District
- Caesar Rodney School District
- Cape Henlopen School District
- Capital School District
- Christina School District
- Colonial School District
- Delmar School District
- Indian River School District
- Lake Forest School District
- Milford School District
- New Castle Vo-Tech School District
- Polytech School District
- Red Clay School District
- Seaford School District
- Smyrna School District
- Sussex Technical School District
- Woodbridge School District
- Academy of Dover Charter School
- Delaware College Preparatory Academy
- East Side Charter School
- Family Foundations Academy
- Maurice J. Moyer Academy
- Odyssey Charter School
- Pencader Business and Finance Charter High School
- Prestige Academy

These agencies were selected based on (a) the amount of stimulus funding awarded through November 1, 2009, (b) request of the Governor's Stimulus Solutions Group, and (c) risk factors identified during prior audits.

The procedures were performed solely to assist the specified parties in evaluating the State of Delaware's preparedness to administer and report on American Recovery and Reinvestment Act of 2009 (Recovery Act) funding. Management of the aforementioned agencies, districts, and charter schools are responsible for their respective compliance with those requirements for the period July 1, 2009 through June 30, 2010 (FY10).

This agreed-upon procedures engagement was performed in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States and the attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our objectives and related procedures were as follows:

Objective #1:

To evaluate the State of Delaware's preparedness to administer, monitor, and report the uses and benefits of the funds received under the Recovery Act.

Procedures:

1. Interview agency/district/charter school personnel and review documentation from the agency/district/charter school. From the data collected, evaluate whether the agency/district/charter school has the infrastructure in place to adequately track, monitor, and report on the use of Recovery Act funds as is required under the accountability and transparency provisions of the Recovery Act. The evaluation was structured around six specific areas:
 - a. Staffing – Did the agency identify sufficient, qualified personnel to oversee the Recovery Act funds and take appropriate steps to ensure that staff were prepared to address the requirements of the Recovery Act?
 - b. Accounting System – Is the accounting system sufficient to (a) distinguish and prevent commingling of Recovery Act funds, (b) accumulate required data elements, and (c) support the increased volume in funding? Did the agency take appropriate steps to ensure staff's ability to properly and consistently utilize the accounting system?
 - c. Fraud, Waste and Abuse – Does the agency have sufficient internal controls/processes to limit and identify fraud, waste, error and abuse at both the agency and subrecipient levels?
 - d. Overarching Performance – Do the agency's policies and procedures address the requirements of the Recovery Act? Has the agency taken appropriate action to resolve prior audit findings that may impact implementation of Recovery Act funds? Has the agency provided subrecipients with Recovery Act requirements?
 - e. Acquisitions/Contracts – Do Recovery Act contracts include necessary language and elements and are they awarded in a prompt, fair, and reasonable manner? Has the agency taken appropriate actions to prevent unnecessary delays and cost overruns on projects? Are the uses and benefits of these funds transparent and reported clearly, accurately, and timely?
 - f. Transparency and Accountability – How does the agency collect and accumulate required data elements, including from subrecipients, and ensure reporting deadlines are met for Recovery Act funds?

Findings:

The Office of Auditor of Accounts (AOA) determined that the following agencies/districts/charter schools were prepared to administer, monitor, and report the uses and benefits of the funds received under the Recovery Act:

- Criminal Justice Council
- Department of Education*
- Department of Health and Social Services*
- Department of Transportation*
- Delaware State Housing Authority**
- Department of Labor*
- Department of Natural Resources and Environmental Control
- Appoquinimink School District
- Brandywine School District*
- Caesar Rodney School District
- Capital School District*
- Christina School District*
- Colonial School District*
- Delmar School District
- Indian River School District*
- Lake Forest School District
- Milford School District
- New Castle Vo-Tech School District
- Polytech School District*
- Red Clay School District*
- Seaford School District
- Smyrna School District
- Sussex Technical School District*
- Woodbridge School District
- Delaware College Preparatory Academy**
- East Side Charter School**
- Family Foundations Academy**
- Maurice J. Moyer Academy**
- Odyssey Charter School**
- Pencader Business and Finance Charter High School**
- Prestige Academy**

AOA determined that Cape Henlopen School District (CHSD) did not demonstrate preparedness to administer, monitor, and report the uses and benefits of the funds received under the Recovery Act. As such, additional testing will be performed at CHSD through an agreed-upon procedures engagement in which the Recovery Act 1512 reports and supporting documentation will be tested.

AOA determined that Academy of Dover (AOD) did not apply for Recovery Act Funds until March 31, 2010, despite the funds being available in 2009. The Department of Education (DOE) approved the application on April 9, 2010.

See the **Schedule of Findings and Observations** section of this report for the detailed finding and observation related to CHSD and AOD, respectively.

Of the agencies/districts/charter schools listed above, those marked with one asterisk (*) were tested as part of the State's Circular A-133 Audit (Single Audit) for the fiscal year ended June 30, 2009. During the Single Audit, material weaknesses were noted for major programs tested at DOE, Department of Health and Social Services, Brandywine School District, Indian River School District, Red Clay School District, and Sussex Technical School District. Significant deficiencies were also noted at these departments/districts and Department of Labor, Christina School District, and Polytech School District. As such, these entities will be considered for additional testing through AOA's Recovery Act 1512 reporting agreed-upon procedures engagement.

In addition, the agencies/district/charter schools marked with two asterisks (**) were not tested as part of the State's Single Audit for the fiscal year ended June 30, 2009, as they are not part of the State's reporting entity.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on compliance with specified laws. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

R. Thomas Wagner, Jr., CFE, CGFM, CICA
Auditor of Accounts
Office of Auditor of Accounts

April 26, 2010

FINDINGS & OBSERVATIONS

Objective #1:

To evaluate the State of Delaware's preparedness to administer, monitor, and report the uses and benefits of the funds received under the Recovery Act.

Procedures:

1. Interview agency/district/charter school personnel and review documentation from the agency/district/charter school. From the data collected, evaluate whether the agency/district/charter school has the infrastructure in place to adequately track, monitor, and report on the use of Recovery Act funds as is required under the accountability and transparency provisions of the Recovery Act.

Finding #1

Cape Henlopen School District

Criteria

On February 13, 2009, Congress passed the Recovery Act at the urging of President Obama, who signed it into law four days later. A direct response to the economic crisis, the Recovery Act has three immediate goals:

- Create new jobs and save existing ones.
- Spur economic activity and invest in long-term growth.
- Foster unprecedented levels of accountability and transparency in government spending.

On April 3, 2009, the Executive Office of the President Office of Management and Budget issued a memorandum entitled, "Updated Implementing Guidance for the American Recovery and Investment Act of 2009" (Memo). The Memo included an appendix, Risk Considerations, which detailed numerous risks that agencies should consider and address. Some of these risks are as follows:

- Are specific Recovery Act fund objectives and requirements incorporated into agency policies?
- Does my organization have staff adequately trained to effectively implement Recovery Act requirements?
- Does my organization have a corrective action plan in place to promptly resolve the audit findings identified that may impact the ability to successfully implement Recovery Act?
- Has my organization identified qualified personnel to oversee the Recovery Act Funds?

Condition

The following weaknesses were identified for CHSD:

- CHSD provided a list of staff that has been tasked to work with Recovery Act funds. However, CHSD failed to provide detail of the staff's experience, qualifications, and job duties.
- CHSD failed to provide evidence of adequate knowledge, training, and communication for Recovery Act funds. When asked to detail the training, memorandums, and guidance used, CHSD indicated that AOA should inquire of the State of Delaware Department of Education and the State of Delaware Office of Management and Budget (OMB) as to the guidance that was

FINDINGS & OBSERVATIONS

provided by them. CHSD's response did not provide any evidence of knowledge of Recovery Act requirements.

- CHSD did not respond to inquiries regarding prior year audit findings.
- CHSD provided policies and procedures that were neither detailed nor included or addressed Recovery Act Objectives or Requirements.

Cause

CHSD's lack of knowledge of Recovery Act objectives and requirements and attention to audit requests.

Effect

CHSD's failure to provide evidence of adequately trained and knowledgeable staff, prove appropriate, timely action was taken on prior year audit findings, and provide policies and procedures that address Recovery Act objectives or requirements causes an increased concern in CHSD's ability to administer, monitor, and report the uses and benefits of the funds received under the Recovery Act.

Recommendation

CHSD should:

- Make the effort to appropriately respond to audit inquiries with adequate detail and support.
- Ensure that staff that are tasked with decision making, accounting, and reporting for Recovery Act funds have proper experience, qualifications, and training.
- Develop detailed policies and procedures that include the requirements of Recovery Act funds. Policies should be detailed to include accounting, reporting, and fraud.

AOA will perform additional testing at CHSD to be performed during an agreed upon procedures of Recovery Act 1512 reports and supporting detail. This testing will determine if actual uses of Recovery Act funds were in accordance with the Recovery Act and were reported properly.

Entity's Response

District disagrees with the finding and recommended that the AOA contact the administering offices of OMB, DOE, and the Lt. Governor's Office for the detailed information being requested. All districts are/were required to follow the same rules, regulation, policies, and procedures set forth by these agencies. The District has complied with all regulations from the oversight departments and has not been subject to any non-compliance findings. Therefore, we believe the finding is unfounded.

Accountant's Comment

It is CHSD's responsibility to provide evidence of its knowledge of rules, regulations, policies, procedures, etc. AOA contacted CHSD on three occasions in order to obtain some type of evidence that CHSD had obtained proper knowledge regarding Recovery Act requirements and had adequate processes in place to administer, monitor, and report the uses and benefits of the funds. CHSD failed to provide this evidence. CHSD's response that AOA should contact the administering offices of other agencies would not provide evidence that CHSD is knowledgeable of Recovery Act requirements. It would only provide evidence of the administering offices' knowledge. Hence, CHSD has failed to prove that it has the adequate processes in place to administer, monitor, and report the uses and benefits of funds. AOA stands by the finding and recommendation.

FINDINGS & OBSERVATIONS

Observation #1

Academy of Dover Charter School

The School Chief indicated that AOD had difficulty in finding uses for its regular state and federal funding; and hence, has not found a need for the Recovery Act funds. Not applying for the funds limits the ability of AOD to meet the Recovery Act's immediate goal of spurring economic activity. In addition, AOD has been on probation as well as school improvement. AOD's inability to find uses for the Recovery Act funds despite having an academic program that is below target gives the perception of inadequate managerial decisions.

AOD's Board and School Chief/Business Manager should discuss the academic needs of AOD, review the available funding, and submit timely applications for funding.

Entity's Response

AOD did not have difficulty finding uses for its State and Federal funds, however the school's Principal did not want to have to manage ARRA Funds until FY 2009 funds were expended. At no juncture was the schools Board of Directors nor the Principal told that there was a sense of urgency in applying for and spending those funds, other than Fiscal Year constraints. AOD has submitted its request for ARRA funds and is awaiting approval.

Accountant's Comment

AOD's School Chief stated, "The school has not applied for the funds yet because in the 09/10 school year we received Consolidated Grant, School Improvement and, School Improvement 1003 funds. We were having difficulty spending those funds in the allotted time frames since these funds have very limiting restrictions on their use. It is our intention to request a flex waiver for the use of ARRA Funds, so that the use of these funds better meets our needs."

AOA determined that DOE approved AOD's application on April 9, 2010. In conclusion, AOA will perform agreed-upon procedures of AOD's subsequent Recovery Act 1512 reporting.

DISTRIBUTION OF REPORT

This report is intended solely for the information and use of the specified parties and is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited. This report, as required by statute, was provided to the Office of the Governor, Office of the Controller General, Office of the Attorney General, Office of Management and Budget, and the Department of Finance.

Copies of this report have been distributed to the following public officials:

The Honorable Jack A. Markell, Governor, State of Delaware
The Honorable Matthew Denn, Lieutenant Governor, State of Delaware
The Honorable Russell T. Larson, Controller General, Office of the Controller General
The Honorable Joseph R. Biden, III, Attorney General, Office of the Attorney General
The Honorable Ann Visalli, Director, Office of Management and Budget
The Honorable Thomas J. Cook, Secretary, Department of Finance
Ms. Valerie Watson, Acting Director, Division of Accounting, Department of Finance
The Honorable Lillian Lowery, Secretary, Department of Education
The Honorable Rita Landgraf, Secretary, Department of Health and Social Services
The Honorable Anas Ben-Addi, Director, Delaware State Housing Authority
The Honorable John McMahon, Secretary, Department of Labor
The Honorable Collin O'Mara, Secretary, Department of Natural Resources and Environmental Control
The Honorable Carolann Wicks, Secretary, Department of Transportation

Officials of Audited Entities

Mr. Robert Scoglietti, Director of Policy and External Affairs, Office of Management and Budget
Mr. Christian Kervick, Acting Executive Director, Criminal Justice Council
Dr. Tony Marchio, Superintendent, Appoquinimink School District
Dr. Mark Holodick, Superintendent, Brandywine School District
Dr. Kevin Fitzgerald, Superintendent, Caesar Rodney School District
Dr. George Stone, Superintendent, Cape Henlopen School District
Dr. Michael Thomas, Superintendent, Capital School District
Dr. Marcia Lyles, Superintendent, Christina School District
Dr. George Meney, Superintendent, Colonial School District
Dr. David Ring Jr., Superintendent, Delmar School District
Dr. Susan Bunting, Superintendent, Indian River School District
Dr. Daniel Curry, Superintendent, Lake Forest School District
Ms. Sharon Kanter, Superintendent, Milford School District
Dr. Steven Godowsky, Superintendent, New Castle County Vo-Tech School District
Dr. Dianne Sole, Superintendent, Polytech School District
Dr. Mervin Daugherty, Superintendent, Red Clay School District
Dr. Russell Knorr, Superintendent, Seaford School District
Ms. Deborah Wicks, Superintendent, Smyrna School District
Dr. Patrick Savini, Superintendent, Sussex Tech School District
Dr. Kevin Carson, Superintendent, Woodbridge School District
Mr. Noel Rodriguez, Principal, Academy of Dover Charter School
Ms. Anita Roberson, Principal, Delaware College Preparatory School District

DISTRIBUTION OF REPORT

Ms. Dominique Taylor, Head of School, East Side Charter School
Dr. Tennell Brewington, Director, Family Foundations Academy
Mr. Theopalis Gregory, Sr., Director, Maurice J. Moyer Academy
Mr. Anthony Skoutelas, Head Master, Odyssey Charter School
Mr. Brad Catts, Head of School, Pencader Business and Finance Charter High School
Mr. Jack Perry, Director, Prestige Academy